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**Commerce & Labor Committee**

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**HB 2538**

**Brief Description:** Authorizing the department to request and superior court to grant warrants pursuant to chapter 49.17 RCW.

**Sponsors:** Representatives Conway, Hudgins and McCoy; by request of Department of Labor & Industries.

**Brief Summary of Bill**

- Provides that the Department of Labor and Industries must obtain consent when entering a worksite under the Washington Industrial Safety and Health Act.
- Authorizes the Department of Labor and Industries to request a court to issue and authorizes a court to grant a search warrant for inspection under the Washington Industrial Safety and Health Act.

**Hearing Date:** 1/18/06

**Staff:** Sarah Dylag (786-7109).

**Background:**

Under the federal Occupational Safety and Health Act (OSHA), Washington is authorized to assume responsibility for occupational safety and health (the "state plan state" concept). The Washington Industrial Safety and Health Act (WISHA) applies to most workplaces in Washington. The WISHA is administered and enforced by the Department of Labor and Industries (Department), which adopts rules governing safety and health standards for covered workplaces. The state's industrial safety and health standards must be at least as effective as those adopted under the OSHA for the state to maintain its status as a state plan state.

To insure compliance with WISHA, Department representatives inspect workplaces and cite employers for violations. Upon presenting appropriate credentials to the owner, manager, operator or agent in charge of a worksite, Department representatives have the authority to enter a worksite at all reasonable times and conduct an inspection.

**Summary of Bill:**

The Legislature intends that inspections ensure safe and healthful working conditions for every person working in Washington and that inspections follow the mandates of the federal and state constitutions and the OSHA.

A Department representative must obtain consent from the owner, manager, operator, or on-site person in charge of a worksite when entering a worksite located on private property. A Department representative must enter the property at a "reasonably recognizable entry point" to request this consent. Advance notice of the inspection is not required.

A Department representative is not prevented from making any observations of evidence in open view or taking action consistent with a recognized exception to the warrant requirements of federal and state law.

If a Department representative is denied or reasonably believes that he or she will be denied access to a worksite, the Director may apply to the court of competent jurisdiction for a search warrant authorizing access. The court is authorized to issue a search warrant.

**Rules Authority:** The bill does not contain provisions addressing the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.